

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**DANNY MANZANARES,
Plaintiff,**

vs.

No. CIV 05-0095 JP/LFG

**SEAN HIGDON, an Officer of the
Albuquerque Police Department,
Individually**

Defendant.

**PLAINTIFF'S UNOPPOSED MOTION FOR SETTLEMENT CONFERENCE ON
PENDING ATTORNEY'S FEES AND COSTS**

Plaintiff Danny Manzanares by and through his attorneys of record, Dennis W. Montoya, Montoya Law, Inc., and Arlon L. Stoker, hereby moves the Court for an order setting a settlement facilitation pursuant to D.N.M.LR-Civ. 16.2(a). As grounds in support of this Motion, Plaintiff states:

Pursuant to 42 U.S.C. § 1988, Mr. Manzanares filed a petition for attorneys' fees, which is currently pending before this Court. Defendant Higdon filed a response to the petition, stipulating that Mr. Manzanares was the prevailing party and therefore is statutorily entitled to attorneys' fees, and that the hourly rates set forth in the petition are reasonable. The only issue before the Court is whether the total hours expended were reasonable, the question of which has been assigned to the Honorable Lorenzo F. Garcia for a proposed disposition. However, prior to any disposition, Plaintiff requests that the Court set a settlement conference so that the parties may be afforded an opportunity to reach a mutually acceptable resolution of this matter without incurring a great deal of additional expense or unnecessarily burdening the Court.

This request is in keeping with the Supreme Court's holding in *Blum v. Stenson*, in which it held that

a request for attorney's fees should not result in a second major litigation. Parties to civil rights litigation in particular should make

a conscientious effort, where a fee award is to be made, to resolve any differences. A district court is expressly empowered to exercise discretion in determining whether an award is to be made and if so its reasonableness. The court, with its intimate knowledge of the litigation, has a responsibility to encourage agreement.

465 U.S. 886, 902 (1984)(*quotations omitted*). It is the hope of the parties that a fair resolution may be reached through agreement rather than litigation.

Counsel for Defendant has been contacted and indicates that she DOES NOT OPPOSE this Motion.

WHEREFORE, Plaintiff respectfully requests that the Court grant the relief sought in this motion and any other relief that may be just and necessary under the circumstances.

Respectfully submitted,
MONTOYA LAW, INC.

By: _____

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UNOPPOSED:

(Telephonically on Friday, May 7, 2010)

Kathryn Levy
Assistant City of Albuquerque Attorney

I hereby certify that a true and correct copy of the foregoing pleading was delivered to opposing counsel through the Court's CM/ECF document filing and delivery system on May 10, 2010.

Dennis W. Montoya